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Forty-eighth session

SUMMARY RECORD OF THE 52nd MEETING
(FIRST PART*)

Held at the Palais des Nations, Geneva,
on Tuesday, 3 March 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

CONTENTS

Consideration of draft resolutions and decisions relating to agenda items 18, 10, 17 and 11

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* The summary record of the second part of the meeting appears as document E/CN.4/1992/SR.52/Add.1.

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The meeting was called to order at 3.40 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEMS 18, 10, 17 and 11

Draft resolution E/CN.4/1992/L.72 (agenda item 18)

1. Mr. MEZZALAMA (Italy), speaking on behalf of the sponsors, introduced the draft resolution on the protection of Roma (gypsies). It was intended to replace resolution VI contained in the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and took into account the comments made by several delegations on the Sub-Commission's text. It dealt with the situation of the Roma (gypsies) who lived mainly in European countries.

2. In the draft resolution, the Commission requested the Special Rapporteur of the Sub-Commission to accord special attention to the specific conditions in which the Roma lived and to carry out a study to compensate for the lack of information on the Roma. The resolution also invited States to adopt all appropriate measures in order to eliminate any form of discrimination against Roma (gypsies) and to guarantee their protection and security.

3. His delegation hoped that the draft resolution might be adopted by consensus.

4. Mr. MAUTNER-MARKHOF (Secretary of the Commission), informing the Commission of the financial implications of the draft resolution, said that any new activity of the Special Rapporteur would have to be financed from the 1992/1993 programme budget reserve.

5. Mr. BAUM (Germany) requested that a vote should be taken on draft resolution E/CN.4/1992/L.72.

6. The CHAIRMAN invited the members of the Commission who wished to do so to speak in explanation of their vote before the vote.

7. Mr. CROOK (United States of America) said he had not expected that there would be a vote on the draft resolution under consideration, but that, since there would be, he would abstain. While he was in favour of the protection of the Roma, he considered that the draft resolution, and paragraph 2 in particular, restricted the responsibility of States for their protection. States were required to protect all persons who lived in their territory, not only those who were ordinarily resident.

8. Mr. BAUM (Germany) said his country welcomed the fact that the Commission on Human Rights was dealing with the situation of groups of persons facing difficulties in certain countries. However, his delegation considered that the operative paragraphs of the draft resolution were unsatisfactory and that there was not enough time to discuss them. Its reservations were primarily the result of the fact that the draft resolution focused selectively on the situation of the Roma, even though there were other groups of persons living in comparable conditions, and did not make it clear whether or to what extent the rights of minorities were being dealt with. In his country, the

Roma were not considered to be a minority and discrimination in favour of the Roma alone was not possible precisely because persons staying illegally in the country might be expelled.

9. Mr. SEZAKI (Japan) said he was of the opinion that the draft resolution could be adopted without a vote. If there was to be a vote, however, his delegation would like to have time to consider the matter; he therefore requested that any vote should be postponed until a later meeting.

10. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission postponed the vote on draft resolution E/CN.4/1992/L.72 until the next meeting.

11. It was so decided.

Draft decision E/CN.4/1992/L.73 (agenda item 18)

12. Mr. MEZZALAMA (Italy), speaking on behalf of the sponsors, introduced the draft decision on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities, which would replace draft decision 2 contained in the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In the draft decision, the Special Rapporteur was requested to submit a progress report on the study he was carrying out to collect information on how the question of minorities was being addressed by States. The more information that was made available, the more opportunity there would be to establish a useful database for States. His delegation considered that the Special Rapporteur should continue consultations with States and include visits to countries, at the invitation of Governments. It hoped that the draft decision might be adopted by consensus.

13. Mr. MAUTNER-MARKHOF (Secretary of the Commission), informing the Commission of the financial implications of the draft decision, said that expenditure had been estimated at $45,200 for 1992 and $24,000 for 1993 and that those amounts would come from the 1992/1993 programme budget reserve.

14. Draft decision E/CN.4/1992/L.73 was adopted without a vote.

Draft resolution VI, contained in document E/CN.4/1992/2, chapter I, section A (agenda item 18)

15. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission agreed to postpone its consideration of draft resolution VI, which was entitled "Protection of minorities" (document E/CN.4/1992/2, chap. I, sect. A) and which the Sub-Commission was recommending for adoption, until a decision had been taken on draft resolution E/CN.4/1992/L.72.

16. It was so decided.

Draft decision 2, contained in document E/CN.4/1992/2, chapter I, section B (agenda item 18)

17. The CHAIRMAN said that, if he heard no objection, he would take it, in view of the adoption of draft decision E/CN.4/1992/L.73, that the Commission did not want to take a decision on draft decision 2, entitled "Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities", which was contained in document E/CN.4/1992/2, chapter I, section B, and which the Sub-Commission had recommended for adoption.

18. It was so decided.

Draft resolution E/CN.4/1992/L.36/Rev.1 (agenda item 10)

19. Mr. RHENAN SEGURA (Costa Rica), speaking on behalf of 40 delegations, introduced the draft resolution entitled "Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". Under the draft resolution, the Commission decided to set up an intersessional working group which would meet prior to the Commission's next session to prepare a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, taking as a basis the draft which was contained in document E/CN.4/1991/66 and had led to the adoption of decision 1991/107.

20. The draft optional protocol, which provided for the institution of a system of periodic visits to places of detention, had been prepared by a group of experts which had met in Geneva in December 1990 at the invitation of several non-governmental organizations. It was a revised version of the text submitted by Costa Rica in 1980 and referred to in the statements made by the Costa Rican Minister for Foreign Affairs, Mr. Niehaus, the President of the Swiss Confederation, Mr. Felber, the Special Rapporteur, Mr. Kooijmans, and the representatives of many non-governmental organizations.

21. The revised draft resolution submitted to the Commission incorporated a number of amendments which had been proposed by the Australian delegation and took account of the observations of several other delegations. The Working Group's mandate had been extended to cover the consideration of the implications of the adoption of the draft optional protocol and the relationship between the draft optional protocol and regional instruments and the Committee against Torture. The intention was also that the Working Group should be permitted to receive comments from bodies having experience in visiting places of detention.

22. Bearing in mind that the purpose of the draft resolution was only to decide whether a draft text should be considered, that the Working Groups which had met prior to the session namely, the Working Group on the draft declaration on the protection of all persons from enforced or involuntary disappearances and the Working Group to study the rights of persons belonging to national, ethnic, religious and linguistic minorities, had reached the end

of their mandates and that any relevant suggestion or matter could be discussed by the working group to be set up, his delegation was of the opinion that there was no reason why the draft resolution under consideration should not be adopted by consensus.

23. Mr. MAUTNER-MARKHOF (Secretary of the Commission), informing the Commission of the financial implications of the draft resolution, said that, on the basis of previous expenditure, the cost of the necessary conference services for a two-week meeting of the Working Group would be $144,200. Such expenditure would be financed from the 1992/1993 programme budget reserve.

24. Draft resolution E/CN.4/1992/L.36/Rev.1 was adopted without a vote.

25. Mr. QUIROS (Peru), explaining his position on the resolution which had just been adopted, said that his delegation would participate actively in the work of the Working Group as soon as the Economic and Social Council had authorized its establishment and would transmit its comments on the draft text contained in document E/CN.4/1992/66 at the appropriate time.

Draft resolution E/CN.4/1992/L.53 (agenda item 17)

26. Mr. MARANTZ (Canada), introducing the draft resolution relating to the report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, said that the text was the result of joint drafting efforts by Australia, Brazil, Colombia, New Zealand and Norway, with the assistance of several non-governmental organizations representing indigenous populations. The draft resolution, which referred to the most recent documentation on the matter, proposed the renewal of the mandate of the Working Group, which should be authorized to meet again for 10 working days, with interpretation services in English, Spanish and Russian.

27. The Working Group should be cautious in its proposals for expenditure, without in any way diminishing the opportunity for indigenous groups to participate in its work. All parties were also encouraged to continue to contribute to the United Nations Voluntary Fund for Indigenous Populations. It should be noted that the wording of operative paragraph 13 of the draft resolution had been amended slightly, with the addition of the words "related to the tasks" after the word "activities" in the third line.

28. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Denmark and Sao Tome and Principe wished to become sponsors of the draft resolution. The administrative and programme budget implications of the draft resolution, calculated on the basis of previous expenditure and submitted to the Commission for information in accordance with rule 28 of its rules of procedure, would amount to US$ 34,700 for 1992.

29. Draft resolution E/CN.4/1992/L.53 was adopted without a vote.

Draft resolution E/CN.4/1992/L.54 (agenda item 17)

30. Mr. MARANTZ (Canada), introducing draft resolution E/CN.4/1992/L.54 on the International Year for the World's Indigenous People, said that Denmark and Nigeria had joined the sponsors. The text had been drafted with the cooperation of Australia, Brazil, Canada, New Zealand and Norway, with the advice of several non-governmental organizations representing indigenous populations. It differed from texts submitted at earlier sessions in that it referred to the most recent documentation and, in particular, to General Assembly resolution 46/128 of 17 December 1991 and it mentioned the 1993 World Conference on Human Rights. In addition, the technical meeting which was referred to in paragraph 7 and which would complement the meetings envisaged in draft decision 8 adopted by the Sub-Commission at its preceding session should help to further the objectives of the International Year. The sponsors of the draft resolution, which proposed that the Year should be officially entitled: "1993 - The International Year of the World's Indigenous People", encouraged all parties to contribute to the voluntary fund established for the International Year one year previously by the Secretary-General at the request of the Commission. His delegation was sure that the draft resolution would be adopted by consensus.

31. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Denmark, Mauritania, Nigeria, Philippines and Sao Tome and Principe had joined the sponsors of the draft resolution.

32. Mr. OGADA (Kenya) said that his country also wished to become a sponsor.

33. Draft resolution E/CN.4/1992/L.54 was adopted without a vote.

Draft resolution E/CN.4/1992/L.57 (agenda item 17)

34. Mr. PETERS (Netherlands), introducing the draft resolution on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, established by the General Assembly in resolution 46/122, said that the Fund would play an important role in the protection of the rights of victims of contemporary forms of slavery by providing assistance to such victims and enabling representatives of concerned non-governmental organizations to participate in the work of the Working Group on Contemporary Forms of Slavery. Governments, organizations and individuals were called upon to contribute to the Trust Fund, if possible on a regular basis. His delegation hoped that the draft resolution might be adopted without a vote, as General Assembly resolution 46/122 had been.

35. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Nigeria wished to join the sponsors of the draft resolution.

36. Mr. SENE (Senegal) said he hoped that the Voluntary Trust Fund would increase the resources available to the Centre for Human Rights and enable the Working Group on Contemporary Forms of Slavery to carry out its task in the best possible conditions. As the consideration of the question of

contemporary forms of slavery was multidisciplinary in nature, the Working Group should have more technical means and, in particular, more human resources, and that meant more financial resources.

37. Draft resolution E/CN.4/1992/L.57 was adopted without a vote.

Draft resolution E/CN.4/1992/L.58 (agenda item 17)

38. Mr. PETERS (Netherlands), introducing the draft resolution on the report of the Working Group on Contemporary Forms of Slavery, said that the sponsors wished to express their satisfaction to the Working Group for its activities and invite Governments and other interested parties to participate in the Working Group's meetings. The importance of international instruments relating to contemporary forms of slavery was also emphasized, as was the need to provide the Working Group with the means to carry out its important task. It would also be desirable for the Centre for Human Rights to be designated as the focal point for United Nations activities for the suppression of contemporary forms of slavery. His delegation hoped that the draft resolution might be adopted without a vote, as at preceding sessions.

39. Mr. MAUTNER-MARKHOF (Secretary of the Commission) informed the Commission that Sao Tome and Principe wished to join the sponsors of the draft resolution.

40. Draft resolution E/CN.4/1992/L.58 was adopted without a vote.

Draft resolution E/CN.4/1992/L.75 (agenda item 17)

41. Mr. MARANTZ (Canada), introducing the draft resolution on human rights and disability, sponsored by Germany, the Islamic Republic of Iran, Kuwait, Somalia, the United Kingdom of Great Britain and Northern Ireland and Zimbabwe, drew attention to the valuable contribution of the Czech and Slovak Federal Republic to the preparation of the text and to the advice of non-governmental organizations concerned with matters of the disabled. The final report of the Special Rapporteur on human rights and disability, Mr. Despouy, had also been very useful. The sponsors wanted to show that it was possible to ensure respect for the human rights of the disabled. In paragraph 6 of the draft resolution, the Secretary-General was invited to request the Centre for Social Development and Humanitarian Affairs to carry out a number of specific activities. His delegation hoped that the draft resolution might be adopted by consensus.

42. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Colombia also wished to become a sponsor of the draft resolution. He indicated that its administrative and programme budget implications, calculated on the basis of previous expenditure and communicated to the Commission in accordance with rule 28 of its rules of procedure, were estimated at US$ 69,200 for 1992. The 1992 allocations were included in the 1992-1993 programme budget.

43. Mrs. RUESTA DE FURTER (Venezuela) said that her country wished to join the sponsors of draft resolution E/CN.4/1992/L.75.

44. The CHAIRMAN said that Cuba, Denmark and Gabon also wished to join the sponsors of the draft resolution

45. Draft resolution E/CN.4/1992/L.75 was adopted without a vote.

Draft resolutions V, VIII and IV contained in chapter I, section A, of the report of the Sub-Commission (E/CN.4/1992/2-E/CN.4/Sub.2/1991/65) and related draft resolutions of the Commission (agenda item 17)

46. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that the administrative and programme budget implications of the 16 draft resolutions and 4 draft decisions which had been adopted by the Sub-Commission at its forty-third session and were contained in annex III of the report of the Sub-Commission (E/CN.4/1992/2-E/CN.4/Sub.2/1991/65) were being submitted to the Commission for information under rule 28 of its rules of procedure. The allocations for 1992 and 1993 were included in the 1992-1993 programme budget and requirements for 1994 and 1995 would be taken into account, as appropriate, when the draft programme budget for that period was prepared.

Draft resolution V (Human rights and youth) and the amendment proposed in document E/CN.4/1992/L.78

47. Mr. PETERS (Netherlands), introducing document E/CN.4/1992/L.78, said that, in the opinion of the sponsors of the amendment, there was no need for paragraph 4 of the Sub-Commission's draft resolution on Mr. Mazilu's study on human rights and youth to refer to a draft charter of the rights and freedoms of youth throughout the world, in view of the critical comments made by the members of the Sub-Commission and the guidelines for standard-setting in the field of human rights contained in General Assembly resolution 41/120. Since the Convention on the Rights of the Child already existed and many States had acceded to it, it would be preferable, without calling into question the extension of Mr. Mazilu's mandate, simply to request him to submit a final report. His delegation hoped that the amendment would be adopted without a vote.

48. Document E/CN.4/1992/L.78 amending paragraph 4 of draft resolution V of the Sub-Commission was adopted without a vote.

49. Draft resolution V of the Sub-Commission, as amended by document E/CN.4/1992/L.78, was adopted without a vote.

Draft resolution VIII (Fraudulent enrichment of top State officials prejudicial to the public interest) and the amendment proposed in document E/CN.4/1992/L.80

50. Mr. PETERS (Netherlands), introducing the amendment to draft resolution VIII of the Sub-Commission contained in document E/CN.4/1992/L.80, said that the question of the fraudulent enrichment of top State officials prejudicial to the public interest was too complex to be considered by the Commission under agenda item 7, as suggested by the Sub-Commission. The sponsors were therefore proposing that the Commission should keep the question in mind when discussing the question of the realization in all countries of

the economic, social and cultural rights proclaimed in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. They also proposed that the Secretary-General should be requested to draw the resolution to the attention of the Commission on Crime Prevention and Criminal Justice. He recalled that, in the first preambular paragraph of the text proposed by the Sub-Commission, the question of corruption in government had already been considered by the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which had adopted a resolution on the matter. He hoped that the proposed amendment could be adopted without a vote.

51. Document E/CN.4/1992/L.80, amending draft resolution VIII of the Sub-Commission, was adopted without a vote.

52. Mr. SHAH (India), stressing that corruption was an ultimate evil wherever it occurred, said that, as it stood, draft resolution VIII was still too unbalanced, as it did not refer to the factors giving rise to, or the agents responsible for, corruption. Information was published in the press every day on the multinational nature of the complicity that encouraged the phenomenon and it was unrealistic to hope to stem the tide of corruption without acknowledging that aspect. He therefore proposed that, wherever the words "fraudulent enrichment of top State officials prejudicial to the public interest" appeared in the title and in the text, they should be followed by the words "the factors responsible for it and the agents involved in all countries in such fraudulent enrichment". He pointed out that the Final Act of the eighth United Nations Conference on Trade and Development, held in Cartagena, had been adopted by consensus and contained similar wording. He hoped that his delegation's proposal would be adopted by consensus, as no one could condone corruption.

53. Mr. GRILLO (Colombia) said that he endorsed draft resolution VIII and the amendment proposed by India, not only because the resolution was of interest to his country from the point of view of substance, but also because his country was convinced that, in the case of a practice as disturbing and reprehensible as the fraudulent enrichment of top State officials, all those responsible, from the top downwards, should be identified.

54. Mrs. DEWARAJA (Sri Lanka) said that she supported the proposal of the delegation of India, since corruption must be condemned in all countries and the factors which encouraged it must be recognized. The fact that a similar text had recently been adopted in Cartagena should also not go unnoticed.

55. The oral amendment proposed by the delegation of India to draft resolution VIII was adopted without a vote.

56. Mr. SEZAKI (Japan) said that, while corruption in public administration had deleterious effects on nations and their economies and mutual legal assistance was justified in such cases, it did not follow that the developed countries should be designated as being particularly responsible for the restitution to despoiled peoples of the funds which their leaders had extorted from them. Those responsible were the leaders in question and not the developed countries in general. The latter could accept such responsibility

only in accordance with specific agreements between countries. His delegation therefore requested a separate vote on the ninth preambular paragraph of resolution VIII.

57. Mr. KAMAL (Pakistan), speaking in explanation of vote before the vote, said that he regarded corruption by top State officials as a pernicious problem which affected both the North and the South and should be eliminated. While it had many facets, special attention should be paid to those relating to the despoilers and the despoiled, since the money from such fraudulent enrichment originated with and circulated through agents. Some of the proposed amendments were intended to fill the existing gap in resolution VIII. A separate vote on the ninth preambular paragraph was interesting from that point of view. That paragraph was in fact the only one that had any implication for the developed countries, of which some flexibility was requested. Was the request for a separate vote aimed at achieving even greater imbalance in the draft resolution at the developing countries' expense? His delegation would vote in favour of the retention of the paragraph.

58. At the request of the representative of Cuba, a vote was taken by roll-call on the ninth preambular paragraph of draft resolution VIII.

59. Japan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Burundi, China, Colombia, Cuba, Cyprus, Gabon, Gambia, Ghana, India, Indonesia, Iran (Islamic Republic of), Iraq, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Nigeria, Pakistan, Philippines, Senegal, Somalia, Sri Lanka, Syrian Arab Republic, Tunisia, Venezuela, Yugoslavia, Zambia.

Against: Australia, Canada, Japan, United States of America.

Abstaining: Argentina, Austria, Brazil, Bulgaria, Chile, Costa Rica, Czech and Slovak Federal Republic, France, Germany, Hungary, Italy, Netherlands, Peru, Portugal, Russian Federation, United Kingdom of Great Britain and Northern Ireland, Uruguay.

60. The ninth prembular paragraph of draft resolution VIII was retained by 31 votes to 4, with 17 abstentions.

61. At the request of the representative of Japan, a vote was taken on draft resolution VIII, as amended.

62. Draft resolution VIII, as amended, was adopted by 49 votes to none, with 2 abstentions.

Draft resolution IV (Human rights and disability)

63. The CHAIRMAN said that, if he heard no objection, he would take it that, as draft resolution E/CN.4/1992/L.75 had been adopted, the Commission did not wish to take any decision on draft resolution IV proposed by the Sub-Commission.

64. It was so decided.

Draft decisions 7, 8, 9, 10, 11, 13 and 14 contained in chapter I, section B, of the report of the Sub-Commission (E/CN.4/1992/2-E/CN.4/Sub.2/1991/65) (agenda item 17)

Draft decision 7 (Draft universal declaration on the rights of indigenous peoples)

65. The CHAIRMAN said that, if he heard no objection, he would take it that, as draft resolution E/CN.4/1992/L.53 had been adopted on the same subject, the Commission did not wish to take any decision on draft decision 7.

66. It was so decided.

Draft decision 8 (Economic and social relations between indigenous populations and States)

67. Draft decision 8 was adopted without a vote.

Draft decision 9 (Ownership and control of the cultural property of indigenous peoples)

68. Mr. MARANTZ (Canada) suggested that the draft decision should be brought into line with resolution 1991/32, adopted by the Sub-Commission at its forty-third session, by replacing the words "before the conclusion of the International Year for the World's Indigenous People" by the words "to be submitted to the Sub-Commission at its forty-fifth session in 1993".

69. The oral amendment to draft decision 9 proposed by the delegation of Canada was adopted without a vote.

70. Draft decision 9, as orally amended, was adopted without a vote.

Draft decision 10 (Working Group on Contemporary Forms of Slavery)

71. Draft decision 10 was adopted without a vote.

Draft decision 11 (Study on problems and causes of discrimination against HIV-infected people or people with AIDS)

72. The CHAIRMAN proposed that the Commission should postpone its consideration of draft decision 11 until it had considered draft resolution E/CN.4/1992/L.79 on the same question.

73. It was so decided.

Draft decision 13 (International Year for the World's Indigenous People)

74. The CHAIRMAN said that, if he heard no objection, he would take it that, as draft resolution E/CN.4/1992/L.54 had been adopted, the Commission did not wish to adopt draft decision 13.

75. It was so decided.

Draft decision 14 (Working group on the methods of work of the Commission)

76. The CHAIRMAN said that, if he head no objection, he would take it that, since the Commission was unable to consider draft resolution E/CN.4/1992/L.61 on the same question at the current meeting, it would postpone its consideration of draft decision 14 until the following day.

77. It was so decided.

78. Mr. PETERS (Netherlands), speaking in explanation of vote, said that he had voted in favour of draft resolution VIII on the fraudulent enrichment of top State officials prejudicial to the public interest because the operative part of the resolution had been amended, although that did not mean that his delegation fully endorsed the wording of the preamble. With regard to the amendment proposed by the delegation of India, his delegation was of the opinion that, even if a consideration of that nature had been adopted elsewhere, the Commission on Human Rights was not the appropriate body for the adoption of such a political proposal. That was why his delegation had suggested the amendments contained in document E/CN.4/1992/L.80, one of which was intended to bring the matter to the attention of the Commission on Crime Prevention and Criminal Justice, which had greater competence in that regard.

79. Mr. AMORIM (Brazil), speaking in explanation of vote, said that his country had voted in favour of draft decisions 8 and 9 submitted by the Sub-Commission because the decisions made it possible to continue work that was potentially very fruitful for indigenous populations. Since the texts dealt mainly with procedural matters, his delegation had not proposed any substantive amendments which might have been necessary if matters of substance had been raised.

80. Mr. COOK (United States of America), explaining his position on the draft resolutions and decisions adopted by the Commission under agenda item 17, said his country was of the opinion that the Sub-Commission was dealing with too many issues which were irrelevant to human rights. That was why his delegation had requested a vote on, and had voted against, draft decision 4 relating to the question of human rights and the environment. It also considered that too much of the Sub-Commission's work duplicated work underway elsewhere in the United Nations system and referred in that connection to draft resolution E/CN.4/1992/L.58 on the Sub-Commission's Working Group on Contemporary Forms of Slavery. It was opposed to the appointment of a Special Rapporteur on the question of the ownership of the cultural property of indigenous peoples, which could be dealt with more properly by UNESCO. All those projects were symptomatic of a frequent tendency for the Sub-Commission to undertake activities for which it was not competent. His delegation also urged the early completion of studies undertaken by the Sub-Commission, such

as the study on human rights and youth, and it was opposed to the continuation of studies, such as the study on treaties with indigenous peoples under draft decision 12, which were of interest to only a few persons, but none the less required a great deal of expensive work.

81. His delegation regarded the corruption of top State officials as an important issue which should be discussed in competent forums, but it had serious doubts about draft resolution VIII, which tried to make corruption a human rights issue in a tendentious and inaccurate way. Although the amendments to the operative parts of the resolution adopted by the Commission in document E/CN.4/1992/L.80 met some of his delegation's concerns, it had preferred to dissociate itself from the consensus on the draft resolution. As a general rule, it could not support activities for which funding was not available from existing resources.

Draft resolution E/CN.4/1992/L.51 (agenda item 11)

82. Mr. AMORIM (Brazil), introducing the draft resolution on the strengthening of the rule of law, said that the rule of law was universally acknowledged as an essential factor in the effective observance of human rights and fundamental freedoms set out in the relevant international instruments, as had become increasingly evident over the years and, more particularly, since the achievement of awareness that democracy itself contributed to safeguarding citizens' rights. The establishment of a "social and international order" in which human rights could be fully realized was an essential goal of the United Nations and the concept of the rule of law was a cornerstone of international cooperation efforts in that area. Any obstacle to efforts to strengthen the rule of law was an obstacle to the promotion of human rights and fundamental freedoms, particularly in the developing countries, which faced many problems in that regard as a result of the lack of human, material and financial resources. It was a crucial matter and the possibilities for initiatives of international cooperation in that respect were enormous. Draft resolution E/CN.4/1992/L.51 was specifically intended to recognize the need for such cooperation and to consider ways of making it a reality.

83. In the preambular section of the draft resolution, reference was made to the most important documents on the promotion of international cooperation in the field of human rights, namely, the Charter of the United Nations and the Universal Declaration of Human Rights, and emphasis was placed on the crucial role played by national institutions in ensuring respect for human rights, particularly by providing appropriate remedies in cases of violation. In that context, it was desirable that Governments should, at their request, be aided in their efforts by the United Nations and that the latter should equip itself with the necessary machinery for that purpose. In paragraph 1 of the draft resolution, the Commission recognized the need to consider ways and means by which the United Nations system would make a more positive contribution to the development and strengthening by Member States of the rule of law as essential factors in the promotion and protection of human rights and fundamental freedoms, for example, by establishing mechanisms that could contribute, through the provision of substantial technical and financial assistance, to the implementation of operational human rights-related projects in areas such as law enforcement and the administration of justice. Ways and means to

promote international cooperation with a view to strengthening the rule of law should be considered by the World Conference on Human Rights and the Commission was requesting the Secretary-General of the Conference to take the text of the resolution into account in the preparation of the relevant studies and reports to be submitted to the Preparatory Committee.

84. In the opinion of the sponsors, the draft resolution would be a significant step towards enhancing the work of the United Nations in the field of human rights. It dealt with questions which were of fundamental interest to the international community as a whole and, in particular, to developing countries and also provided a basis for collaboration among all Member States on human rights questions. His delegation therefore very much hoped that the Commission would adopt it unanimously.

85. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Lesotho, Sao Tome and Principe and India wished to join the sponsors of draft resolution E/CN.4/1992/L.51.

86. Mr. HESSEL (France) said that, in French, the words "état de droit" were the most appropriate translation of the words "rule of law". He therefore requested that the words "primauté de droit" should be replaced by the words "état de droit" wherever they appeared, including in the title, which would read: "Renforcement de l'état de droit".

87. Mr. RHENAN SEGURA (Costa Rica) said that the same was true in the Spanish version and requested that the corresponding change should be made in the Spanish text.

88. Mr. OGADA (Kenya) and Mr. JALLOW (Gambia) said that they wished to join the sponsors of the draft resolution.

89. Draft resolution E/CN.4/1992/L.51 was adopted without a vote.

Draft resolution E/CN.4/1992/L.52 (agenda item 11)

90. Mrs. FOSTIER (Observer for Belgium), introducing draft resolution E/CN.4/1992/L.52, said that the interest of the United Nations in the promotion of human rights at the regional level was nothing new. Since 1982, Belgium had constantly been drawing attention to the importance it attached to enhanced cooperation between regional and international institutions for the promotion and protection of human rights, since international and regional activities in that field should, in its opinion, be mutually strengthening. That was the aim of draft resolution E/CN.4/1992/L.52, which followed on logically from General Assembly resolution 45/167 requesting the Secretary-General to submit a report to the Commission on Human Rights at its forth-eighth session.

91. The preamble to the draft resolution focused on the interest of the United Nations in the harmonious development of human rights in the different regions. The operative part was based on General Assembly resolution 45/167, the report of the Secretary-General contained in document E/CN.4/1992/58 and the most recent Commission resolutions on regional arrangements and advisory services, which had all been adopted without a vote. In the draft resolution,

the Commission encouraged contacts to promote exchanges of information and experience between the United Nations system and the regional bodies concerned and stressed the importance of the programme of advisory services in the field of human rights in assisting countries in the different regions to implement international human rights standards. Her delegation hoped that the Commission would have no difficulty in adopting the draft resolution by consensus.

92. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Iran, Sao Tome and Principe and Japan wished to join the sponsors of the draft resolution.

93. Mr. ROA KOURI (Cuba) said that regional arrangements for the promotion and protection of human rights could make a major contribution to the effective exercise of such rights, as the Commission had stated in the seventh preambular paragraph of the draft resolution, provided, of course, that the regional arrangements in question were genuinely regional, but that was not, in his opinion, the case of the Organization of American States, from which Cuba had been illegally excluded. His delegation was not opposed to the adoption of the draft resolution without a vote, but it had wanted to explain its position with regard to that Organization.

94. Draft resolution E/CN.4/1992/L.52 was adopted without a vote.

Draft resolution E/CN.4/1992/L.55 (agenda item 11 (c))

95. Mr. ILIOPOULOS (Observer for Greece), introducing the draft resolution on the strengthening of the Centre for Human Rights, said that the intensification of all activities relating to human rights, respect for which had in the past few years increasingly been regarded as a means of enhancing international peace and stability, and the preparations for the World Conference on Human Rights meant a heavier workload and expanded responsibilities for the Centre, whose resources had, unfortunately, not increased accordingly. The strengthening of the Centre had therefore become essential. The relevant resolutions, referred to in the preambular part of the draft resolution, had already drawn attention to the Centre's requirements and the need to create extra posts, but efforts along those lines had to continue, for the defence of human rights itself was at stake. The international community was becoming increasingly aware of that need, as could be seen from the large number of sponsors of the draft resolution, which would, it was hoped, be adopted by consensus.

96. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Estonia, the Islamic Republic of Iran, Lesotho, Sao Tome and Principe, Malta and Belarus wished to join the sponsors of the draft resolution.

97. Draft resolution E/CN.4/1992/L.55 was adopted without a vote.

Draft resolution E/CN.4/1992/L.56 (agenda item 11 (b))

98. Mr. BARKER (Australia), introducing draft resolution E/CN.4/1992/L.56, recalled that France had hosted the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris in October 1991, which had produced a set of principles on the status of commissions and their advisory role. National institutions were an effective mechanism for the implementation of human rights standards and the principles would give Governments guidance on what features the structure of national institutions should have in order to ensure their effectiveness. Under the draft resolution, the Commission endorsed the principles, renamed the "Principles relating to the status of national institutions", and proposed that they should be transmitted to the General Assembly. It requested the Secretary-General to transmit the proceedings of the International Workshop to the Preparatory Committee of the World Conference on Human Rights and to give consideration to the results of the Workshop in the preparation of a manual on national institutions. It also requested the Secretary-General to commence the planning of a follow-up workshop in 1993.

99. Following consultations with a number of delegations, his delegation considered that it would be useful to make two amendments to the draft text. In paragraph 10, it proposed that the word "Endorses" should be replaced by the words "Welcomes the guidance provided by" and that, in paragraph 17, the words "study and" should be added before the word "promote". It hoped those amendments would be acceptable to the Commission and that the draft resolution would be adopted by consensus.

100. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Sao Tome and Principe and Mexico wished to join the sponsors of the draft resolution. He also indicated that the estimated cost of the activities referred to in paragraph 14, namely, the organization of an international workshop in 1993, would be US$ 253,900. The allocations for 1993 were included in the 1992-1993 programme budget under advisory services.

101. Mr. SENE (Senegal) thanked and commended the Australian delegation on the efforts it had made during the preparation of the draft resolution. His country had participated in the International Workshop held in Paris in October 1991 and welcomed the decision to promote the Principles relating to the status of national institutions, whose role was evident. His delegation therefore fully supported the draft resolution, of which it became a sponsor.

102. Draft resolution E/CN.4/1992/L.56, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/1992/L.74 (agenda item 11)

103. Mr. KRENKEL (Austria), introducing draft resolution E/CN.4/1992/L.74 on the establishment of an emergency mechanism of the Commission on Human Rights, said that there were some gaps in the current system of human rights protection and that it was necessary to establish an emergency mechanism which would make it possible to react appropriately and immediately to acute situations arising from gross violations of human rights, wherever and whenever they occurred, while avoiding duplication with existing procedures. Since September 1991,

when the idea had been put before the General Assembly by the Austrian Minister for Foreign Affairs, intensive consultations had been taking place with all interested countries and delegations with a view to the formulation of a draft text on specific measures to establish such a mechanism. The draft text was contained in the annex to the draft resolution.

104. At the current session, some delegations had nevertheless stated that they would like to have more time to study the proposed mechanism and, if necessary, make additional proposals. His delegation had consulted some of the interested delegations that morning with a view to rewording the draft resolution to take account of their reservations and was proposing that, in paragraph 2, the words "take action on" should be replaced by the words "resume consideration of" and that the words "taking also into account further suggestions that might be made on the subject" should be added at the end. His delegation thanked the other delegations for their comments and suggestions and hoped that the draft resolution would be adopted as orally amended without a vote.

105. Mr. MEHTA (India) said that, in view of the amendments just proposed, India would withdraw the amendments contained in document E/CN.4/1992/L.83.

106. Mr. HELLER (Mexico) and Mr. ROA KOURI (Cuba) said that their countries joined the consensus on the draft resolution, as amended. At the next session, however, further consideration would have to be given to specific measures, since the emergency mechanism outlined in the annex was not satisfactory as it stood.

107. Draft resolution E/CN.4/1992/L.74, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/1992/L.79 (agenda item 11)

108. Mr. KEDZIA (Poland), introducing draft resolution E/CN.4/1992/L.79 on discrimination against people infected with human immunodeficiency virus (HIV) or with acquired immunodeficiency syndrome (AIDS) on behalf of the sponsors, which had been joined by Denmark and Italy, said that the intention of the draft resolution was to combat discrimination against HIV-infected people or people with AIDS. It represented only one of the measures taken by international organizations as part of efforts to combat AIDS. In that connection, his delegation welcomed the valuable work of the international association "Rights and Humanity". The consultations it had organized in 1991 had made it possible to draft a declaration on the fundamental principles of human rights, ethics and humanity applicable in the context of HIV and AIDS, as well as a charter based on those principles.

109. The draft resolution, recalling the spirit of solidarity, compassion and tolerance, called upon all States to take all the necessary steps to ensure the full enjoyment of human rights by people with HIV or AIDS, their families and those in any way associated with them, as well as people at risk of infection, particularly in order to combat social stigmatization and discrimination of which those carrying the virus or infected with AIDS were victims. Particular attention was paid to women, children and other vulnerable groups. Human rights treaty bodies and other similar bodies were called upon

"to give full attention to monitoring States parties' compliance with their commitments under the relevant human rights instruments regarding the rights of people infected with HIV or AIDS [...] or people presumed to be at risk of infection".

110. The sponsors also endorsed the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to request Mr. Luis Varela Quiros to submit his final report on discrimination against HIV-infected people or people with AIDS. His delegation hoped that the draft resolution would be adopted by consensus.

111. Mr. MAUTNER-MARKHOF (Secretary of the Commission), informing the Commission of the financial and administrative implications of draft resolution E/CN.4/1992/L.79, said that estimated expenditure was $20,500 for 1992 and $4,200 for 1993 and that the corresponding allocations had been included in the 1992-1993 programme budget.

112. Draft resolution E/CN.4/1992/L.79 was adopted without a vote.

Draft resolution E/CN.4/1992/L.81 (agenda item 11)

113. Mr. KEDZIA (Poland), introducing draft resolution E/CN.4/1992/L.81 on civil defence forces on behalf of its sponsors, recalled that the Working Group on Enforced or Involuntary Disappearances had stressed the growing importance of the phenomenon of civil defence units, particularly in its report entitled "Question of enforced or involuntary disappearances" (E/CN.4/1992/18), according to which civil defence forces were groups initially established within the law by civilian volunteers to assist the public authorities in the maintenance of public order and the protection of the civilian population. However, such groups increasingly frequently departed from their self-defence function to commit abuses of power and human rights violations.

114. While the right to self-defence, like the right to resistance, appeared to be a legitimate ideal, the exercise of such a right raised many problems in practice. How could the power exercised by forces acting outside institutions established by the law be limited? Where did the legitimacy of their action lie? How was it possible to define what was legally admissible and what constituted an abuse of power? The report of the Working Group did not provide enough information for it to be possible to answer such questions satisfactorily. That was why the sponsors of draft resolution E/CN.4/1992/L.81 were requesting the Secretary-General to ask Governments, intergovernmental and non-governmental organizations for information on domestic law and practice relating to civil defence forces. They were also requesting him to submit a report containing a summary of such information at the forty-ninth session of the Commission.

115. By agreement with the other sponsors and delegations concerned, his delegation proposed that, in the first preambular paragraph of the draft resolution, the words "not belonging to the regular law enforcement agencies" should be added after the words "civil defence forces" and that, after the third preambular paragraph, a new fourth paragraph should be added, to read: "Also recognizing that, under exceptional circumstances, when public forces

are unable to act owing to the exigencies of the situation, there may be a need for the establishment of civil defence forces to protect the civilian population". In operative paragraph 3, the words "within their mandates" should be added after the words "pay due attention". His delegation hoped that the draft resolution would be adopted by consensus.

116. Draft resolution E/CN.4/1992/L.81, as orally amended, was adopted without a vote.

117. The CHAIRMAN suggested that any decision on draft resolution E/CN.4/1992/L.82 should be postponed until the following day, as discussions on it were still under way.

118. It was so decided.

119. Mr. COOK (United States), speaking in explanation of his delegation's vote on resolution E/CN.4/1992/L.56 on national institutions for the promotion and protection of human rights, said it had joined the consensus on the understanding that the technical assistance and advisory services referred to in operative paragraph 6 would be financed by United Nations bodies such as UNDP, which used voluntary contributions, and not by the regular budget of the United Nations or its agencies.

120. With regard to resolution E/CN.4/1992/L.74 on the emergency mechanism, of which his country was a sponsor, he said that a number of important details relating to the mechanism outlined in the annex would require further consideration by the Commission at its forty-ninth session.

121. The CHAIRMAN announced that the Commission had completed the adoption of the draft resolutions submitted under agenda item 11. With regard to the draft resolutions submitted under agenda item 17, he proposed that, in view of the adoption of draft resolution E/CN.4/1992/L.79, the Commission might no longer wish to take a decision on draft decision 11 entitled "Study on problems and causes of discrimination against HIV-infected people or people with AIDS".

122. It was so decided.

123. The meeting was suspended at 6.25 p.m.